

AUTHENTICATION

I, Bharat Mathur, certify that I am the Deputy Regional Administrator of the United States Environmental Protection Agency, Region 5, (EPA) and that the attached document is a DVD-ROM containing a true, correct and compared copy of the Excel Spreadsheet sent to you by EPA via letter dated December 6, 2012, a copy of which spreadsheet is in my official custody pursuant to 40 C.F.R. §2.406.

Please note: Do not cut or damage the blue ribbon. Any tampering with this Authentication and Certification "package" will nullify this authentication.

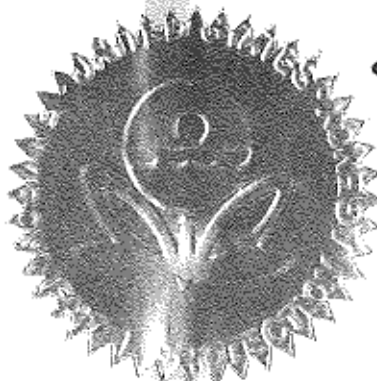
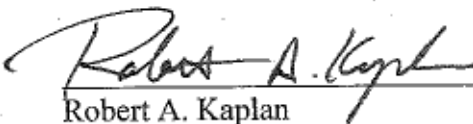
Subscribed under penalty of perjury on October 24, 2013



Bharat Mathur
Deputy Regional Administrator
U.S. Environmental Protection Agency
Region 5

CERTIFICATION

I, Robert A. Kaplan, certify that I am the Regional Counsel of the United States Environmental Protection Agency, Region 5, that I am the designee of the General Counsel for the purpose of executing certifications under 40 C.F.R. §2.406, that I have duties throughout the jurisdiction of Region 5 of the United States Environmental Protection Agency, and that the official whose signature appears above has legal custody pursuant to 40 C.F.R. §2.406 of the original documents as witnessed by my signature and the official seal of the United States Environmental Protection Agency which appear below.

Robert A. Kaplan
Regional Counsel
U.S. Environmental Protection Agency
Region 5

Date: October 22, 2013



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

OCT 22 2013

REPLY TO THE ATTENTION OF:

MEMORANDUM

SUBJECT: Request for an Authenticated Copy

FROM: Robert A. Kaplan
Regional Counsel

TO: Bharat Mathur
Deputy Regional Administrator

A request has been made to authenticate and certify documents concerning the July 2010 Enbridge line 6b Oil Spill near Marshall, Michigan. 40 C.F.R. §2.406 provides that requests for authenticated copies of EPA documents for purposes of admissibility under 28 U.S.C. §1733 and Rule 44 of the Federal Rules of Civil Procedure will be granted for documents which would otherwise be released pursuant to Subpart A. Since this information falls within the scope of releasable records as defined in 40 C.F.R. Part 2 Subpart A, EPA should authenticate this document.

Rule 44 of the Federal Rules of Civil Procedure provides that an official record kept within the United States may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has custody. The certificate may be made by a public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, and authenticated by the seal of the officer's office.

40 C.F.R. §2.406 provides that the advice of the Office of General Counsel should be obtained concerning the proper form of authentication. This advice has been obtained in the form of the attached memorandum entitled "Certification Under Rule 44 and 40 C.F.R. §2.406," prepared by Don Nantkes of the Office of General Counsel. This memorandum states that where there has been no official publication (such as in the Federal Register), a USEPA document, to be admissible, must be attested by the officer having the legal custody or by his deputy and accompanied by a certificate that such officer has custody. The certificate must be executed by a public officer having a seal of office and authenticated by the seal.

Pursuant to 40 C.F.R. §2.406, the person having legal custody of the record is the Assistant Administrator, Regional Administrator, Staff Office Director, or Office Director or his designee.

Under EPA Order 1200.4 of March 4, 1975, the following officials (or their delegees) may use the Agency seal for authentication of official records and legal documents and for similar purposes:

- a. General Counsel;
- b. Deputy Assistant Administrator for Administration;
- c. Executive Officer, Office of the Administration; and
- d. Regional Counsels.

The Nantkes memorandum describes how the documents should be bound, and provides an example of a proper "authentication." Attached are the documents bound in the prescribed manner to prevent substitution or forgery. The cover page of this package is a draft certification which is based on the format called for in the Nantkes memorandum. The authentication should be signed by the Deputy Regional Administrator.

Based on the review conducted, as attested to in the attached affidavit, I recommend that you certify as authentic the attached copies. Please return the file to Charles Mikalian in the Office of Regional Counsel. Mr. Mikalian can be reached by telephone at extension 6-2242.

Attachment

cc: Joseph Kruth, ORC